

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.**

In the Matter of)	
)	
Improving Public Safety Communications)	WT Docket No. 02-55
in the 800 MHz Band)	
)	
Consolidating the 900 MHz Industrial/Land)	
Transportation and Business Pool Channels)	

COMMENTS OF ACCESS SPECTRUM, LLC

In response to the Commission's requests, Access Spectrum, LLC ("Access Spectrum") hereby submits its Comments in response to the recommendations submitted by various parties to resolve the interference between 800 MHz cellular systems operated by Nextel Communications, Inc. ("Nextel") and 800 MHz public safety systems.¹ Access Spectrum strongly supports the Commission's efforts to understand and alleviate this form of interference to both public safety and private wireless operations and to develop a full and complete record in this proceeding. In its opening round Comments, Access Spectrum urged the Commission to remain vigilant in maintaining as its guiding principle the identification of practical solutions that resolve the potential for public safety interference while minimizing disruptions to existing incumbent licensees and to the current allocation structure.²

¹ Wireless Telecommunications Bureau Seeks Comments on "Consensus Plan" Filed in the 800 MHz Public Safety Interference Proceeding, WT Docket No. 02-55, *Public Notice*, DA 02-2202 (rel. September 6, 2002); *see also* Wireless Telecommunications Bureau Clarifies Scope Of Comments Sought In 800 MHz Public Safety Proceeding, WT Docket 02-55, *Public Notice*, DA 02-2306 (rel. September 17, 2002).

² *See* Comments of Access Spectrum at 3-5.

One plan to mitigate this 800 MHz interference was submitted by an *ad hoc* alliance of private wireless and public safety organizations and Nextel ("the Consensus Plan").³ Although the Consensus Plan contains elements that have merit, Access Spectrum is concerned that its implementation may prove to be cost prohibitive and unnecessarily disruptive to existing licensees. Access Spectrum urges the Commission to consider elements of alternative proposals that remain focused on resolving 800 MHz interference rather than swapping spectrum in other bands and that offer practical solutions to mitigating interference that take into account the fact that conditions vary market-by-market.

The main focus of the Consensus Plan is to transform the 800 MHz band from its existing interleaved organization into two sub-blocks; one for cellular-like systems and the other for high-site, non-cellular systems as operated by most public safety and private wireless users. To that end, the Consensus Plan recommends the Commission:⁴

- Relocate the public safety "NPSPAC" licensees currently operating in the 821-824/866-869 MHz band by exchanging frequencies with those currently held by Nextel in the General Category SMR pool at 806-809/851-854 MHz.
- Establish a guard band at 814-816/859-861 MHz for non-public safety private wireless systems. Licensees currently operating in the band, with the exception of public safety licensees, would remain and be subject to a "greater likelihood of interference from CMRS operations."
- Relocate any public safety licensees currently operating in either the 806-809/851-854 MHz block or the proposed "guard band" block at 814-816/859-861 MHz by swapping for channels currently held by Nextel in the 809-814/854-859 MHz band.
- Relocate any "non-Nextel site licensed B/ILT and SMR licensees" currently operating within the 806-809/851-854 MHz band by swapping channels currently held by either public safety or Nextel in the 814-816/859-861 MHz band or by swapping channels with Nextel in the 809-814/854-859 MHz band.

³ Reply Comments of Aeronautical Radio, Inc., *et al.*, WT Docket No. 02-55 (filed August 7, 2002).

⁴ See Consensus Plan at 8-15.

- Relocate non-Nextel EA licensees from the 806-809 MHz/851-854 MHz band to equivalent EA licenses vacated by Nextel “to the extent possible.”
- Require Nextel to surrender its 700 MHz licenses for reallocation to public safety use and its 900 MHz licenses for reallocation to business, industrial, and traditional SMR use.

While the Consensus Plan’s goal of creating contiguous allocations for classes of users is laudable, the variations in usage of the 800 MHz band can only be rationally accommodated by allowing the process of channel consolidation and interference mitigation to be implemented by interest holders within the areas where interference problems exist. As Access Spectrum noted in its Comments, over time, the use of the 800 MHz band in any one market may have evolved in a completely distinct manner from spectrum usage in other markets or regions. There are substantial areas of the country where 800 MHz public safety users co-exist with commercial carriers, including Nextel, and other private and commercial users *without harmful interference*. The imposition of the Consensus Plan’s solution of national contiguous, use-specific blocks will therefore lead to increases or decreases in spectrum available for certain classes of operations and the creation of a guardband with no discernable purpose for most localities. In fact, the Consensus Plan acknowledges that the resolution of public safety interference will ultimately occur not at the national level, but at the local level through case-by-case cooperation and resolution.⁵ Access Spectrum therefore urges the Commission to consider alternative proposals, such as the proposal submitted by Motorola, that avoid the highly costly and disruptive wholesale dislocation of the existing licensing structure suggested by the Consensus Plan and instead focus on addressing interference in a more targeted manner.⁶

⁵ See Consensus Plan at 22-23 (noting that “there will continue to be the potential for interference after the band shift is completed” and urging the Commission to “codify the need for case-by-case cooperation in instances of interference”).

⁶ See Reply Comments of Motorola, WT Docket No. 02-55, (filed August 7, 2002).

Actions at the local level that could reduce or eliminate harmful public safety interference include the use of more effective receivers, the application of the recommendations for resolving interference contained in the *Best Practices Guide*, and the adoption of policies designed to resolve interference through narrowly tailored means implemented on a market-by-market basis. Access Spectrum urges the FCC to exhaust its analyses and reliance of these field-based solutions before pursuing a rebanding solution that would cost the wireless communications industries indeterminable *billions* of dollars. For example, if the primary reason for the interference is the co-mingling of Nextel's low antenna height, interference-limited base stations with public safety's high antenna height, noise limited systems, could not Nextel simply be required to raise its antenna heights in those areas receiving interference? In addition, in areas where current public safety systems provide insufficient signal levels to overcome Nextel "hot spots," could not Nextel be required to support the construction of additional public safety infrastructure? Such actions would prove far less disruptive to 800 MHz users and, more importantly, impose the costs of interference resolution squarely on the source.

Access Spectrum agrees with the Commission's conclusion that any action taken in this proceeding should impose only minimal disruptions to the existing license structure.⁷ Certain aspects of the Consensus Plan, however, appear to be only tangentially related to that goal. The Commission must ensure that the interference problems at 800 MHz are not used by those seeking to enhance their competitive spectral positions in other bands without a full public interest debate on competing uses of those frequencies. For example, reallocating the 900 MHz

⁷ See Improving Public Safety Communications in the 800 MHz Band; and Consolidating the 900 MHz Industrial/Land Transportation and Business Pool Channels, WT Docket No. 02-55, *Notice of Proposed Rulemaking*, FCC 02-81 at ¶ 2 (rel. March 15, 2002) (soliciting proposals on how best to remedy interference "consistent with minimum disruption to our existing licensing structure"); see also *id.* at ¶ 20 ("[N]o one restructuring candidate appears fully able to meet our goal of reducing or eliminating interference without burdening licensees.").

SMR band to business and industrial users is prejudicial to Access Spectrum and should not be pursued in this proceeding as a *quid pro quo* for achieving consensus on one possible 800 MHz interference solution. As Access Spectrum argued in its Comments, the proper focus of this proceeding is not how to best engage in rearranging the beneficiaries in the frequency bands, but how to best resolve interference to public safety entities in a manner that does not require a wholesale dislocation of the existing licensing structure.

Access Spectrum applauds the Consensus Plan's efforts to understand and alleviate interference to public safety operations in the 800 MHz band. Given the highly specific and location-dependent causes of interference, however, the Plan's proposed imposition of nationwide reallocation both inside and outside the 800 MHz band would not only be highly costly and disruptive to existing licensees, but is also ill-suited to meeting the FCC's goal of resolving public safety interference with a minimal amount of disruption to the existing license structure. Access Spectrum urges the Commission to consider alternative proposals that remain focused on an 800 MHz solution to an 800 MHz problem and offer practical solutions to mitigating interference at the local level.

Respectfully submitted,

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